

INITIAL SMALL BUSINESS IMPACT STATEMENT

In order to accurately predict the impact the adoption, amendment, or repeal of a regulation will have on small businesses, the promulgating authority must conduct a thorough analysis that not only considers the potential effects of the action but also quantifies the costs, if any, associated with each. The questions below are designed to aid promulgating authorities in conducting their analysis.

Agency Submitting Regulation: Energy and Environmental Affairs

Subject Matter of Regulation: Toxics Use Fees under the Toxics Use Reduction Act (TURA)

Regulation No: 301 CMR 40.00

Statutory Authority: M.G.L. Chapter 21I, §§ 4 and 19

Other Agencies Affected: Massachusetts Department of Environmental Protection.

Other Regulations That May Duplicate or Conflict with the Regulation: None

Describe the Scope and Objectives of the Regulation: To provide a stable source of funding for the Commonwealth's Toxics Use Reduction Program. These regulations implement an action taken by the Administrative Council on Toxic Use Reduction in September 2014, to adjust the annual reporting fees. TURA fees have not been raised since they were first established in 1991, despite the statutory requirement that they be adjusted annually to reflect changes in the Producer Price Index (PPI).

The proposed fee increase is intended to restore program resources to levels needed to meet statutory obligations, including essential inspections and compliance monitoring at the Department of Environmental Protection, as well as substantial technical assistance services and resources to businesses using toxics in the Commonwealth. The proposed increase mitigates impacts for small business. The proposed increase is designed to fund a wide range of resources for business including technical assistance, training, supply chain efforts, research into safer alternatives, grants, and the dissemination of successful toxics use reduction strategies to companies and communities across the state.

Business Industry(ies) Affected by the Regulation:

Manufacturing facilities with 10 or more full-time employee equivalents (FTEs), and using over threshold amounts of listed toxic chemicals in the following Standard Industrial Classification (SIC) codes: 10 to 14 inclusive, 20 to 40, inclusive, 44 to 51, inclusive 72, 73, 75, or 76 or the corresponding NAICS code.

Types of Businesses Included in the Industry(ies): Metal fabrication, food processing, textiles, furniture manufacture, paper, printing, chemicals and allied products manufacture, rubber and plastics, plating, medical device, industrial machinery, electronics manufacture, instrument manufacture, transportation equipment, paints and coatings, electricity generation, chemical distribution, dry cleaners

Total Number of Small Businesses Included in the Regulated Industry(ies): In 2013, the most recent year for which data are available, there were approximately 460 businesses that were subject to TURA and paid a fee. Four hundred-thirty-one (431) of these facilities had less than 500 employees; the remaining 29 facilities had more.

Number of Small Businesses Potentially Subject to the Proposed Regulation: All businesses filing under TURA would be subject to the fee increase.

Effective Date Used In Cost Estimate: September 2014

Yes	No	<i>*Note: For each question, please answer “yes” or “no” and offer a brief explanation. Please describe any facts, data, views, arguments, or other input from small businesses, organizations or any other sources that were used to quantify the impacts outlined below.</i>
Yes	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? Small businesses will not be subject to additional reports.
Yes	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? The proposed regulation does not impose new or additional record keeping procedures.
Yes	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? Small businesses will not have new or additional administrative oversight requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? Small businesses will not have to hire new or additional staff to comply.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? The proposed regulation does not require small businesses to hire other professionals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? The proposed regulation does not require small businesses to purchase a product or make any other capital investments in order to comply with the regulation.
Yes	No	Are performance standards more appropriate than design standards?

<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities?</p> <p>This regulation does not require small businesses cooperate with audits, inspections or other enforcement activities.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Will the regulation have the effect of creating additional taxes and/or fees for small businesses?</p> <p>Yes. This regulation proposes to increase an existing fee. The proposed increase is designed to mitigate impacts on smaller businesses. The current proposal to increase fees is in no category higher than 50% (for businesses with less than 100 employees using one chemical the increase is 14% or 19%.)</p> <p>The current base fee is \$1,850 for companies with 10-49 full-time equivalent employees, \$2,775 for companies with 50-99 employees, \$4,625 for companies with 100-499, and \$9,250 for companies with 500 or more employees. A per-chemical fee of \$1,100 is due for each listed toxic chemical manufactured, processed or otherwise used in amounts equal to or greater than the applicable threshold amount, except that there is no toxics fee for any chemical designated as “lower hazard substance”. The maximum fee for a company with 10-49 employees is \$5,550, for companies with 50-99 employees it is \$7,400, for companies with 100-499 employees it is \$14,800, and for companies with 500 or more employees it is \$31,450.</p> <p>The proposed fee increases the per-chemical fee for all companies to \$1,650. Companies with 10-49 full time equivalent employees will pay a base fee of \$1,850 and a maximum fee of \$8,325. Companies with 50-99 employees will pay a base fee of \$2,775 and a maximum fee of \$11,025. Companies with 100-499 employees will pay a base fee of \$6,938 and a maximum fee of \$18,000. Companies with 500 or more employees will pay a base fee of \$13,875 and a maximum fee of \$31,450.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>This regulation does not require small businesses to provide educational services to achieve or maintain compliance.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</p> <p>This regulation is not likely to deter the formation of small businesses in Massachusetts.</p>

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? This regulation will not likely encourage the formation of small business in Massachusetts, but may encourage companies that provide/sell safer alternatives to the use of toxic chemicals to market their products in Massachusetts. Services supported by the fee are used to help small businesses to develop greener products and services, among other activities.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can the regulation provide for less stringent compliance or reporting requirements for small businesses? This regulation does not affect compliance or reporting schedules. It is simply an adjustment in the amount of an existing fee.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? This regulation does not affect compliance or reporting schedules.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can the compliance or reporting requirements be consolidated or simplified for small businesses? This regulation does not affect compliance or reporting schedules.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards? Not applicable.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? Not applicable.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Were any small businesses or small business organizations contacted during the preparation of this document? If so, please describe. To develop this proposed fee adjustment, the TURA program has engaged with stakeholders in a variety of ways. The TURA program first considered the options for a fee adjustment in 2007 and 2008. At that time, the TURA Advisory Committee considered a number of detailed fee adjustment proposals, and formed a subcommittee including business representatives and others to work intensively with TURA program staff on impact analysis for several fee adjustment scenarios. While no specific proposal was brought to the Administrative Council at that time, there was agreement on an approach to adjusting the fees and that in order to bring stable funding to the

	<p>program, fees needed to be raised.</p> <p>The meetings of the Administrative Council and of the Advisory Committee are open to the public. In addition to the required public notification, approximately 60 stakeholders that follow Program activities are sent an agenda prior to each meeting of the Council and of the Advisory Committee. The stakeholders include TURA filers and state and national trade associations, including Associated Industries of Massachusetts (AIM), American Chemistry Council (ACC), Massachusetts Chemistry and Technology Alliance (MCTA), as well as advocacy, labor, public health, and members of the public. TURA fees and/or program funding were discussed at 11 meetings of the Advisory Committee between May 2008 and June 2011 (May 5, 2008, June 16, 2008, November 5, 2008, September 17, 2009, October 26, 2009, January 12, 2010, March 9, 2010, September 9, 2010, March 29, 2011, May 19, 2011, June 21, 2011). Members of the public are invited to participate and provide comment at the meetings.</p> <p>On July 14, 2014 the outline of the current proposal was presented to the TUR Administrative Council. The same presentation was made to the Advisory Committee on August 5th, which was attended by members of the regulated community as well as representatives of the Massachusetts Chemistry and Technology Alliance, and the American Chemistry Council.</p> <p>At the August 19th Administrative Council meeting, the details of the fee proposal were presented. On September 5th, at the request of the Executive Director of the Administrative Council, the Toxics Use Reduction Planners Association emailed to all members of the association inviting comments. The Executive Director of the Administrative Council emailed the proposal to the 60 TURA program stakeholders on September 9th, and the Toxic Use Reduction Institute included information about the proposal in its newsletter, reaching several thousand individuals, on September 15th.</p> <p>EEA received 26 letters of support for the fee increase, as well as one general letter of appreciation from a small business. This included a letter from 17 organizations and individuals in the fields of public health, environmental protection, faith, social justice, and others; 24 letters from individuals; one letter from a current TURA filer; and one letter from a small business that received TURA program assistance in eliminating the use of a listed chemical. The letter from Alpha Chemical Company, a current TURA filer that is subject to the fee, noted that “As we complied with TURA, we learned that it actually was a benefit to us in many ways.” These letters cited the benefits of TURA and the need for the program to be adequately funded.</p> <p>Letters in opposition to the increase were received from two state-level industry associations (the Massachusetts Chemistry and Technology Alliance and the Associated Industries of Massachusetts), one national chemical industry association (the American Chemistry Council), and one TURA filer, Barrday Composite Solutions.</p>
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